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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,499	11/05/2004	Yasuyuki Imaizumi	121012	6466
25944	7590	07/27/2006	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding:

Office Action Summary

Application No.

10/507,499

Applicant(s)

IMAIZUMI ET AL.

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/18/06</u> . | 6) <input type="checkbox"/> Other: _____ |

1. The abstract of the disclosure is objected to because it is ungrammatical when it refers plural tubes as "a...tubes" in lines 1 and 3-4 and in line 7, reference to a single "the tube" lacks antecedent basis. Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities: References to "a tubes" is ungrammatical throughout the specification wherever it appears.

Appropriate correction is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 1, "A multi-partitioned tubes" is ungrammatical. It is also indefinite as to what disclosed structure is being defined, as plural "tubes" of the claimed container are not multi-partitioned, only the tubular container is partitioned or the outer tube is partitioned, but not all of the claimed individual tubes are partitioned, as the inner tube, while serving as a partition defining structure, is not itself partitioned. In claim 1, line 6, "the ring" lacks antecedent basis as an element of the claimed structure, as while the container has the cross-section of a ring or a ring cross-section, there is no structure of the container called "the ring" and it should be --the ring cross-section--.

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is not seen to be "multi-partitioned" tubes defining the tubular container as claimed, as the inner tube is arranged to partition the outer tube, so only one tube is partitioned.

As to claims 2-3 and 6-9, the disclosure is extremely vague as to what comprises synthetic resin layers "highly compatible" with each other as recited in claim 2 and what comprises synthetic resin layers "scarcely compatible" with each other, and such terminology renders the scope and intent of the claims gravely indefinite.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Mita et al. (7,044,334). Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Iwatsubo (6,959,840). Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamamoto et al. (6,332,726). Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Reilly et al. (Figures 15-18)(5,373,966). Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kushida et al. (3,936,334). Each discloses a partitioned synthetic resin tubular container (11; 11; 11; 12; 1; respectively) having the cross section of a ring and comprising a peelable portion (at 14; at 14; at 22; at 34; between 5 and 6) over some peripheral length of the ring cross section and comprising an inner layer (14; 14; 22; 34; 5) and an outer layer (13; 13; 21; 14; 6) detachably laminated to one another and an adhered portion occupying the rest of the ring cross-section with the layers undetachably laminated with each other, wherein the inner layer forms a partition wall or walls that allow inner space to be divided into compartments.

As to claim 2,, each discloses the inner and outer layers comprising diverse materials, the materials being "highly compatible" as they are used together.

As to claim 3, Yamamoto et al. disclose the inner and outer layers as "scarcely compatible", such as not being co recyclable, and joined by an adhesive layer.

As to claims 4, 6 and 7, Yamamoto et al. disclose a half peripheral length as the peelable portion (see Figure 5).

As to claims 5, 8 and 9 Yamamoto et al. disclose peelable portions on both sides of the ring to divide the inner space into three compartments (se Figure 4).

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are partitioned tubular containers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday and Thursday through Friday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Bryon P. Gehman', written in a cursive style.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG